

Wilmington Trust Center, 1100 North Market Street, Suite 1001, Wilmington, DE 19801  
Tel: (302) 777-5860 ■ Fax: (302) 777-5863 ■ [www.WolfBlock.com](http://www.WolfBlock.com)

Direct Dial: (302) 777-6374  
Direct Fax: (302) 778-7834  
E-mail: [tmcgonigle@wolfblock.com](mailto:tmcgonigle@wolfblock.com)

March 23, 2007

**VIA E-MAIL & HAND DELIVERY**

The Honorable Arnetta McRae  
Commission Chair  
Delaware Public Service Commission  
861 Silver Lake Boulevard  
Cannon Building Suite 100  
Dover, Delaware 19904

**Re: Bluewater Wind LLC's Request For Reconsideration Pursuant to Rule 34(b).**

Dear Chairperson McRae:

As you know, the Public Service Commission (the "Commission") issued Order No. 7148 on Tuesday, March 30, 2007, directing the release of certain information on March 27, 2007. At the March 20<sup>th</sup> hearing on this matter, I, on behalf of Bluewater Wind, LLC ("Bluewater"), represented that Bluewater was in agreement with the PSC's Staff memorandum dated March 14, 2007, except that we had still not heard from one of its most significant vendors, Vestas Wind Systems A/S ("Vestas"), with regard to some of their material slated for release.

Vestas, through its U.S. counsel, contacted me yesterday with significant concerns over certain aspects of the documents currently subject to release. As such, with this letter and separate affidavit submitted under seal, I respectfully request, pursuant to Rule 34 (b), that the Commission reconsider Order No. 7148 with respect to a few very specific items currently slated for disclosure on March 27, 2007.

While I very much regret that I was not able to bring these concerns to the Commission at or before its hearing on March 20, 2007, practical difficulties arose given the tight time frames involved with this process and this particular vendor. Specifically, Vestas is one of the largest wind turbine manufacturers in the world and is headquartered in Demark. The company has its own in-house legal department and separate U.S. counsel, both of which were required to be involved in the review and decision making process regarding these issues. Thus, given the

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time differences and their internal corporate decision making process, we were unable to bring these concerns to the PSC's attention at the hearing on March 20, 2007.

Nevertheless, Vestas has strong objections to the release of certain aspects of this information and has now invoked its Non-Disclosure Agreement with Bluewater. To that end, it was my understanding from the hearing on March 20th, as it relates to NRG, that the PSC ruled that those documents properly subject to a Non-Disclosure Agreement are confidential and not subject to disclosure. In addition, I have filed under seal, pursuant to Rule 11, a confidential affidavit from Bo Morup, Vice President of Sales of Vestas Offshore A/S that specifically articulates the reasons why this information is confidential and/or proprietary and should not be disclosed.

I fully recognize that PSC Staff and Counsel will need to review and confirm that the information in question is properly deemed confidential and/or proprietary. It is my hope and request that if Staff and counsel should so confirm, the PSC would refrain from disclosing those particular documents or portions thereof until such time as the Commission, as whole, can consider Staff's conclusions. In the alternative, I respectfully request the Commission call an emergency hearing to consider this matter, prior to the release of this information.


Please understand I make these requests with great reluctance, given the extraordinary amount of time and effort the Commission and its staff have already spent on this issue. However, at their essence, the requests are that we be afforded some of the same protections and process already afforded NRG. While I certainly would have preferred to have fully raised these issues at the March 20, 2007 hearing, I note that, unlike NRG, which had multiple opportunities to present and respond after being put on notice that Staff was not in agreement with their confidentiality designations, Bluewater was put on notice for the first time with specificity on March 14, 2007 that PSC staff had concluded that some of the materials Bluewater declared confidential and proprietary in its February 16, 2007 submission were to be released. I make this point not to be critical in any way of the careful and deliberative process afforded NRG but to simply point out that while this has been a long process with many opportunities for written and oral presentations by NRG, that has not been the case with Bluewater.

One final point on the larger issue of public disclosure, Bluewater has already committed to disclosing most of its bid submission and the remaining items at issue here are not particularly significant in the public debate. In fact, I have yet to hear any issues raised or discussed in the public debate or any PSC hearing that relate to the information we are requesting confidential treatment. As such, as it relates to the upcoming public comment period, the information at issue has de minimis value to that process, while having very significant value and importance

to the competitive position of Vestas. Thus, on balance, I respectfully suggest that there is little or no harm to not disclosing this information at this time.<sup>1</sup>

In closing, I thank you for your consideration of this important matter. Both I and Bluewater reiterate our appreciation for all of the diligent efforts by the Commission, its staff and counsel in reviewing confidential information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. P. McGonigle', written over a horizontal line.

Thomas P. McGonigle

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

cc: Commission Members  
James McC. Geddes, Esquire via email  
Service List

TPM/sc

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<sup>1</sup>I also received a communication this afternoon from a representative of Shared Document Number 41, pages 1-2, requesting that the name/identity of the author thereof be redacted in the document to be released to the public. As such, Bluewater respectfully requests consideration of this request on the grounds that the commercial terms therein are particular to Bluewater and potentially sensitive to other potential clients of the author.